

# **WISCONSIN STATE PLANNING REPORT**

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## **A. State Planning Process and Participants.**

The state planning process in Wisconsin has occurred through the formation of a "Commission on the Delivery of Legal Services" (hereafter "Skilton Commission") by the State Bar of Wisconsin. In September of 1994, State Bar President-Elect John Skilton appointed thirty persons to this commission. These commission members were diverse, representing private law firms both large and small, legal services law firms, the Wisconsin Supreme Court, the federal courts, law schools, non-LSC legal services providers, state Circuit Court judges, the State Bar, law librarians, government lawyers, Black and Latino lawyers and law school clinics. Some of the members were John Skilton, State Bar President during 1996-97 and a partner in Foley & Lardner, Wisconsin's largest law firm; Maureen McGinnity, a partner in Foley & Lardner's Milwaukee office; Justice Shirley Abrahamson, Chief Justice of the Wisconsin Supreme Court; Casey Andringa, a solo practitioner in Waukesha; Linda Balisle, a shareholder in the Madison law firm of Balisle & Roberson, and an instructor in Family Law I and II at the University of Wisconsin Law School; James Beck, the Executive Director of Wisconsin Judicare; Hon. Charles Clevert, then the Chief United States Bankruptcy Judge for the Eastern District of Wisconsin, and now a District Judge for the same district; Hannah Dugan, development attorney and staff attorney for the Legal Aid Society of Milwaukee and clinical supervisor of the Marquette University Law School Municipal Ordinance Defense Clinic; John Ebbott, Executive Director of Legal Action of Wisconsin; David Feingold, a member of Feingold, Bates & Sultze, a four-person firm in Janesville; James Fullin, a solo practitioner in Madison with a concentration in alternative dispute resolution; Marc Galanter, a law professor at the University of Wisconsin Law School who is the author of a number of studies of litigation and disputation in the United States; Supreme Court Justice Janine Geske; Hon. Ramona Gonzalez, a Circuit Court Judge in La Crosse; Marcia Koslov, the State Law Librarian; Frank Remington, an Assistant Attorney General specializing in environmental litigation; Karma Rodgers, the principal owner of Butler Rodgers Law Offices in Milwaukee, and a leader in the Wisconsin Association of Minority Attorneys; Gilda Shellow, a partner in the Milwaukee law firm of Shellow, Shellow & Glynn, and a member of the Board of Wisconsin's IOLTA foundation, the Wisconsin Trust Account Foundation; Mary Triggiano-Hunt, the Coordinating Attorney of Legal Action of Wisconsin's Volunteer Lawyers Projects, a major PAI program in Wisconsin; Dan Tuchscherer, the Executive Director of Legal Services of Northeastern Wisconsin; and G. Lane Ware, president of Ruder, Ware & Michler, a large Wausau law firm, and an

active ABA member.

As first conceived, the mission of the Skilton Commission was to explore and make recommendations concerning ways to increase the availability and accessibility of legal services to low - and moderate-income persons, including the so-called “working poor,” i.e. those persons who did not qualify for publicly-financed legal services but yet could not afford to pay for legal services. When LSC funds were cut in 1996, the scope of the Skilton Commission’s work was necessarily broadened to include the consequences of the defunding of poverty law firms. As a corollary, it became apparent to the Commission that the legal profession would be called upon to step up its pro bono efforts. The Skilton Commission noted with approval the following passage from the “State Plan for Wisconsin” (submitted to LSC in October of 1995):

The stark reality is that the reduction in funds to LSC grantees by 25-30%, a reduction from an already grossly inadequate funding level, cannot be fully compensated by planning or by fine tuning, and certainly not by reorganizing, the existing statewide legal services delivery system. None of the other components of that system are adequately funded, and all organizations are straining to continue their levels of effort on behalf of their clients. Many of them are funded by IOLTA, whose revenues have dropped by 50% over the past four years. Those organizations are not in a position to absorb the 7,000 cases which the LSC funding reductions will prevent the grantees from handling. (App. B-4, p.8).

(Emphasis supplied.) The Commission found it imperative that it examine existing legal services delivery systems from a fresh perspective and revisit existing paradigms for the delivery of legal services to the poor. It did so.

After initial discussions, the Skilton Commission sponsored, at the Annual Bar Convention in June 1995, a forum to elicit input from lawyers and judges on areas of legal needs. Breakout sessions generated lively debate and proved to be a source of valuable input to the Commission.

In an effort to assess the current state of legal services delivery to low - and moderate-income citizens, the Skilton Commission also sought input from members of the community served by the legal profession. During August of 1995, it held public hearings in five locations: Madison, Milwaukee, Wausau, Eau Claire and Green Bay. Invitations to appear or give written comments were sent to over 2,000 organizations and community leaders. Each public hearing was a day-long event, lasting from 9 a.m. until at least 5 p.m. In Milwaukee, response was so positive that two concurrent sessions were held during the morning hours. Approximately 200 persons gave testimony to the Commission. Commission members at each hearing engaged the attendees in dialogue, inviting them to offer suggestions for improvement in delivery

areas which they reported as having shortcomings.

Citizens from all walks of life appeared at the hearings. The greatest participation came from judges and court personnel; paralegals; staff of legal services offices; representatives from the Department of Health and Social Services and other governmental entities; advocates representing the elderly, victims of domestic abuse, those with disabilities and other health-related issues; law school personnel; public librarians and law librarians; tribal employees; community child care workers; and State Bar leaders.

Following this, the Commission made fourteen recommendations and instituted five pilot projects. (See Commission on the Delivery of Legal Services: Final Report and Recommendations; State Bar of Wisconsin, June 1996, attached as Attachment A.) On April 12 and 13, 1996, the State Bar of Wisconsin's Board of Governors considered and debated the recommendations presented by the Commission. All fourteen recommendations were approved (subject to several friendly amendments) by a majority vote on April 13. On May 4, 1996, the Commission held its final meeting approving the friendly amendments to the recommendations as proposed by the Board.

The recommendations are:

1. The State Bar of Wisconsin and local bar associations should sponsor and promote a campaign for private practitioners to (a) provide free half-hour consultations to prospective clients and (b) offer alternative legal fee arrangements.
2. The State Bar should sponsor a symposium on the subject of "unbundling" of legal services and lawyer assistance in self-representation.
3. Wisconsin courthouses should house Information Resource Centers to provide the following assistance to courthouse users and visitors:
  - a. Helping people find where they need to go;
  - b. Providing rudimentary "how to" information to persons who need access to the court system;
  - c. Answering simple legal questions and assisting in the preparation of forms that are available in these centers;
  - d. Acting as a resource and directing persons to appropriate state, local and federal or other nonprofit groups for additional service.
4. The Wisconsin Supreme Court should establish a statewide standing Pro

Se Forms Committee responsible for collating existing pro se materials, creating new forms as needed in the different substantive areas and establishing procedures to routinely and reliably update and disseminate pro se materials.

5. The Supreme Court should create a Task Force on Family Law in the Courts to review and make recommendations on administration, processing and proceedings in cases presenting ChIPS, custody, child support and domestic violence issues.
6. As an interim measure, the State Bar should support the use of lay advocates in domestic abuse cases and other limited proceedings where there is an established need for assistance and where the public interest can be protected.
7. The State Bar should develop guidelines for expanding the range of activities traditionally performed by paralegals, with lawyers continuing to supervise and remaining accountable for paralegals' activities.
8. All lawyers should make a personal commitment to perform, or provide financial support for, voluntary pro bono representation of individuals of limited means.
9. The State Bar annual membership dues statement should include a solicitation for voluntary contributions to support pro bono programs.
10. Law firms should assume institutional responsibility for the delivery of pro bono legal services. This can be accomplished by various means, or combinations of means, including the following:
  - a. Committing to the Law Firm Pro Bono Pledge;
  - b. Establishing internship programs or partnerships with legal services programs;
  - c. Setting up and adequately funding a firm pro bono department;
  - d. Making direct financial contributions to WisTAF for the delivery of legal service to the poor; and
  - e. Directly staffing and/or financially supporting community law offices.
11. The State Bar should systematically coordinate, support and promote pro bono activities.
12. The State Bar should provide leadership in exploring alternative funding

sources for legal service agencies.

13. The State Bar should actively encourage federal, state and local governments and the public at large to expand their commitment to ensure that all persons have access to legal services, and the message should be sent that this is a public obligation.
14. The President of the State Bar should appoint a committee to monitor and assist the Bar in implementing the Commission's Recommendations and Pilot Projects and report back to the Bar on an annual basis.

The pilot projects which arose out of the Skilton Commission were:

1. The State Bar should create and fund a Pro Bono Resource Center to systematically coordinate, support and promote pro bono activities by Wisconsin lawyers.
2. The State Bar should support and partially fund the establishment of a Brown County Courthouse Legal Information Center.
3. The State Bar should fund the establishment of the South Madison Community Legal Resource Center.
4. The State Bar should assume a leadership role in establishing a Project on Accessible Law in conjunction with Marquette and UW law schools, public interest law firms, libraries and other bar associations.
5. The State Bar should provide leadership in convening a task force to work in conjunction with legal services organizations to develop and implement a plan for permanent and reliable funding for civil legal services to low-income people.

Most of these recommendations and pilot projects are being implemented. In the summer of 1998, the executive directors of the four LSC-funded law firms in Wisconsin, having received Program Letters 98-1 and 98-6, invited the current State Bar President, Susan Steingass; the Chairman of the State Bar's Legal Assistance Committee, John St. Peter; the State Bar's Pro Bono Coordinator, Deborah Kilbury Tobin; and the Executive Director of the Wisconsin Trust Account Foundation, Tom Heine, to a meeting to review the appropriateness of the Skilton Commission Report continuing to function as a state plan for Wisconsin. At that meeting, this report was discussed and amended.

The following text addresses, in the context of the Skilton Commission Report, the

seven elements of Program Letter 98-1. It describes the methods and means which we have chosen to employ to respond to a Draconian funding cut of 25%, which has forced us to reduce the number of clients assisted from 22,000 to 14,000. In formulating these means, we have taken care not to go completely to brief service and advice. We believe that it is very important to continue to provide our clients with extended service, whether negotiation, administrative hearings or court cases, to the maximum feasible extent. The following is drafted with that goal in mind.

**B. Response to Questions in Program Letter 98-1.**

**1. INTAKE, ADVICE AND REFERRAL**

**How are intake and delivery of advice and referral services structured within the state? What steps can be taken to ensure a delivery network that maximizes client access, efficient delivery, and high quality legal assistance?**

**a. The coordinated system.**

Intake procedures among the individual LSC grantees in the state take into account the size, complexity, cultural and ethnic diversity of the client population in Wisconsin, as well as geographical, physical and historical distinctions. Therefore, intake, advice and referral procedures vary from program to program, and within programs. Each reflect that individual program's efforts to provide the greatest level of client services given available staff and their individual access to other resources. These variations are well thought out and based on years of experience and cooperation.

The state's four LSC programs have longstanding reciprocal arrangements for inter-program referrals of eligible clients to the legal services office nearest the county where the client's legal problem is venued.

The LSC program serving the area where the client resides is the point of first contact, and makes the initial eligibility determination and merit assessment of the client's case. If appropriate, the client is then referred to the LSC program or other appropriate provider in the vicinity where the client's case will need to be handled. Such referrals are typically preceded by a brief phone call between the programs' advocates to discuss the case. If the client's problem is within the transferee program's priorities, case information is faxed to the transferee program. This arrangement ensures that every low-income person can simply contact the nearest Legal Services office for either direct assistance or for a referral to the appropriate Legal Services office or other provider for her case. Maintaining this cooperative intake and referral network maximizes client access to LSC programs and those programs' efficient delivery of high-quality legal services.

As an example, there is a Coordination and Cooperation Agreement Governing Delivery of Legal Services to Persons Over 60 in Washington and Ozaukee Counties. (Attached as Attachment B.) This agreement is between LSNeW and LAW.

**b. The Legal Action of Wisconsin intake and advice and brief services delivery system.**

The four Legal Action offices use a variety of intake systems to target various special populations and issues. All offices are in locations where low-income people are concentrated or where bus lines converge. All offices have TTY and TTD phone lines and are accessible. Spanish-speaking staff are available in three offices and, where there are high concentrations of client populations that speak other languages, contacts with translators are developed.

Telephone intake is used to ensure access throughout Legal Action's service area. Walk-in intake is used for urban, high-density populations. Walk-in intake covers high-volume types of problems that can be handled by paralegals (e.g., welfare, housing). Where experience has shown that large numbers of clients are apt to come in on walk-in intake, a "backup" intake person is assigned so that no client will be kept waiting for long periods of time. Legal Action uses appointment intake systems on a limited basis, where appropriate.

Outstation intake is used for migrant workers, in neighborhoods where poverty is concentrated, or where attorney or law student volunteers are interested in doing intake for specific populations, such as in Waukesha and Walworth Counties, homeless shelters, and Southeast Asian community centers. Regularly-used outstations have statute books and a library of Legal Action informational handouts. Where community space is available for intake, it is used.

Volunteer attorneys are used to conduct intake where they have an interest in a specific population or where they have a special expertise, such as consumer law. Law students are used where training is simple, supervision is not unreasonably burdensome, and there will be no conflict with vacations, exams, paid jobs, and other student responsibilities. All staff or volunteers who will be conducting intake are given detailed training in the common issues presented, sources of additional help, community resources, and informational handouts. An intake "manual" is updated on a regular basis.

Legal Action staff also receive direct referrals as a result of their many years of work with community organizations that serve low-income people. Legal Action staff members provide regular training to these organizations, and are available to answer questions from their staffs regarding current clients of the organizations or more

general legal questions that can assist future clients. Legal Action is on referral lists for several government agencies. It also receives referrals from judges, particularly in the less-populous counties.

**c. Wisconsin Judicare's Intake and Advice and Brief Service Delivery System**

Wisconsin Judicare, whose service area covers 30,000 square miles, uses a decentralized intake system that relies on volunteers to determine financial eligibility. This system, which has been used for over twenty-nine years, has proven to be an efficient and cost-effective intake process for the huge rural region served by Judicare.

Clients applying for services may obtain and complete an application at a card-issuing agency. Wisconsin Judicare has approximately 90 such agencies located throughout the Judicare service area. Over 200 persons provide volunteer services at such card-issuing agencies for Wisconsin Judicare. Community Action Programs, shelter homes, county social services departments, and tribal offices act as card-issuing agencies for Wisconsin Judicare. Volunteers receive training from Wisconsin Judicare periodically so that they can assist clients in completing the applications.

After the application is completed, the card-issuing agent makes a determination whether the person is financially eligible for Wisconsin Judicare services. If the client is eligible, the client is issued a Judicare card, which is proof of the client's eligibility for services from the program. All applications are submitted to the central Judicare office, where they are reviewed. Clients may also complete an application and mail it to the Judicare office.

Wisconsin Judicare maintains two toll-free phone lines, and in urgent situations will take a client's application over the telephone.

A Judicare cardholder with a legal problem contacts a private attorney willing to participate in the Judicare system, presents the card, and has an initial conference with the attorney. If the matter only requires brief service or advice, the attorney counsels the client and then submits a Request for Payment Form to Wisconsin Judicare and is paid \$20. If the client's matter requires additional representation, the attorney submits a Request for Authorization to Proceed Form to the Wisconsin Judicare central office, the case is screened to see that it complies with the current case coverage policies and then, if approved, the attorney is advised that the case is covered and the attorney provides representation to the client.

**d. The Legal Services of Northeastern Wisconsin ("LSNeW") intake**



**and advice and brief services delivery system.**

Clients can contact LSNeW by phone or by walking into either of the two offices (toll-free phone numbers are widely publicized for out-of-town clients). An intake worker makes an initial determination that the matter is within priorities and immediately screens for conflicts. If a matter is not within program priorities or a client is ineligible for services, an appropriate referral is made to another agency whenever possible. If the matter is within priorities and presents an emergency, (e.g., eviction action with imminent court date), the matter is immediately assigned to an advocate. If not, an appointment is scheduled for an advocate to call or meet with the client. A full telephone or face-to-face interview is then performed by the advocate, who may often provide advice or brief services to resolve the matter at that time. Arrangements are made by LSNeW to have interpreters present for clients with language barriers or special needs.

Recently, LSNeW staff members have begun an experiment with a system of providing immediate phone advice and brief service to clients at the time they first call to obtain services. Review of client satisfaction surveys and staff feedback will determine if and how this system will be expanded or another system developed.

The size of the service area of LSNeW, at 7,000 square miles, presents its own challenges and costs of doing business. To maximize access, LSNeW maintains toll-free 800 phone lines in both its offices. LSNeW has interviewing locations throughout the 15-county service area for meeting with clients. Travel costs for outstation intake and representation are necessarily substantial, with annual staff travel that exceeds 80,000 miles.

**e. Western Wisconsin Legal Services intake and advice and brief services delivery system.**

Because Western Wisconsin Legal Services (hereafter “WWLS”) is a long-time provider of legal services to low-income individuals in predominantly rural, southwestern Wisconsin, and because it has a significant Hmong and Native American population, WWLS has already developed a variety of service delivery methods to address many of the needs of the low-income population. In addition, because roughly 30% of WWLS' current clients are at least partially disabled, WWLS is especially sensitive to the particular needs of this client population. WWLS uses a variety of methods to assure accessibility to services.

Because most of WWLS' service area is primarily rural and covers a large geographical area, it is difficult for clients to travel to either of its two offices, located in Dodgeville and La Crosse. At the present time, therefore, WWLS uses primarily telephone intake, although clients may opt to visit the offices for intake, if they prefer. Both offices

have a toll-free number. WWLS also makes home visits or arranges for in-person interviews at a local site convenient to the client, when necessary.

The La Crosse office is across the street from the city bus stop. It is handicapped accessible, and has a handicapped parking spot in front of the building. WWLS makes arrangements for assistive devices and interpreters when necessary in working with clients with communications and/or language barriers.

Although telephone intake often increases the immediate accessibility of WWLS staff to clients, WWLS also recognizes that face-to-face local meetings with clients are important. In addition, some clients do not have telephones. Therefore, WWLS staff members travel to each of the counties it serves to do new intake and to see other clients.

WWLS staff is also involved with numerous community organizations and receives referrals of eligible clients from these organizations.

**f. The LSC Programs' Experience with Centralized Telephone Intake.**

The decision as to how much to rely upon telephone intake depends on the needs of each program's client population. These needs vary significantly throughout the state. Telephone intake is performed where there is a high-volume demand for services which no staffing level or physical location could accommodate; where public transportation is mostly or entirely unavailable; in emergency situations; or to make services more accessible for elderly and disabled persons. Telephone intake may also be useful when a client of limited capacity or English language skills needs a spokesperson who is able to call for the client, but does not have the time to come to the legal services office. Rural counties throughout the state are served by either 800 numbers or local numbers for the legal service programs serving those counties. In one county, a combination of CDBG funding and a small local bar grant pays for a person who will accept intake telephone calls, do preliminary eligibility screening, and make appointments for Legal Action clients to be seen at her location.

In over twenty years of using telephone intake, the state's LSC programs have learned that there are both advantages and disadvantages. Where advantageous, as in the situations mentioned above, it is employed. However, there are numerous problems with telephone intake:

1. First, it is important to distinguish between performing intake and giving thorough legal advice. Intake is essentially a screening event, requiring only a knowledge of office priorities and the training to ask appropriate questions. Telephones can be very useful for this purpose, especially with high-volume intake areas that, with limited staff levels, could not be handled in person.

Giving legal advice by telephone is a very different process. It is complex and difficult, and requires a very high level of experience and sophistication. It is noteworthy that because of the risks involved, Legal Action's efforts to involve private attorneys in phone advice "hotlines" has encountered much resistance. To give adequate telephone advice, an office needs to use its most experienced staff. In times of reduced resources, this staff time is badly needed for actual client representation and the supervision of less experienced staff.

There is no question that giving legal advice by telephone results in higher numbers of people who were spoken to, but whether they were "served" well, or even ethically, will in many cases be questionable.

2. Telephone intake does not permit review of legal documents. This obvious problem is especially acute when deadlines are short; legal services clients often seek assistance fairly late in the process.
3. Telephone intake does not permit the signing of LSC-required forms, retainers, or release forms. Often problems can be resolved at intake when releases are signed and can be faxed to the appropriate location, or when signed retainers permit prompt contact with opposing parties.
4. Interviewing and advising is much more difficult on the telephone than in person, especially with relatively unsophisticated populations. In our experience, personal interviews are much more effective for assessing the merits of a client's case and developing a productive attorney-client rapport.

Centralized telephone intake has all of the above problems, and additional ones as well:

1. Both intake and advice are more often than not venue-specific. Even state and federal programs run by local governmental units have their own local procedures and idiosyncrasies. Referrals are almost always local and require intimate knowledge of local resources.
2. Local staff are aware of local problems - a chronically bad landlord or car dealership, for instance - that more distant staff will not be.
3. To adequately reach local populations, a physical local presence is needed. LSNeW and Legal Action have had substantial experience with this problem. Legal Action installed toll-free phone lines when offices had to be closed during the funding cutbacks in the 1980s. LSNeW maintained its local phone listings and toll-free numbers when it closed its Sheboygan area office because of the funding cuts for LSC in 1996. The drop-off in intakes in those locations was

substantial in each instance. Where Legal Action was able to establish local telephone numbers and, in one county, a local person to take intake calls, the resulting increase in intakes was dramatic. The lesson to us was that to adequately reach out to clients, an office must have some kind of a local presence, and a centralized phone number is a very poor substitute for that.

**g. State Bar of Wisconsin Lawyer Referral and Information Service.**

In addition to the intake and delivery systems of the four LSC grantees in Wisconsin, the State Bar of Wisconsin operates the Lawyer Referral and Information Service, which is available to persons statewide, including but not limited to low-income persons. LRIS employs legal assistants who analyze potential legal problems and help the individual locate the most appropriate help. Referrals are to legal services programs, private attorneys, government agencies or other appropriate programs. Private attorneys who are referred individuals where a fee is paid are required to reimburse LRIS 10% of the fee over \$200. LRIS services are available toll-free throughout Wisconsin and are widely advertised. LRIS services are available from 7:30 a.m. to 6 p.m. five days per week. LRIS is currently receiving over 50,000 calls and is referring over 5,000 cases to private attorneys per year. LRIS referral fees and registration fees make the operation of this program nearly self-sustaining at this time. Historically there has been substantial financial support for the program from the State Bar of Wisconsin.

In addition to the referral of individuals with legal problems, LRIS also operates the Lawyer Hotline Program, a legal advice service to the public, again including but not limited to low-income persons. The Hotline Program involves members of the private bar from around the state in providing free legal advice to individuals whose legal matter is not fee-generating. The service operates as a public service to answer basic legal questions. Most Hotline questions involve landlord/tenant law, small claims court, basic family law, simple wills, bankruptcy and traffic issues. LRIS has arranged for professional liability coverage through Wisconsin Lawyers Mutual Insurance Company.

There are several different ways in which the Hotline is operated. Hotline volunteer opportunities are arranged by LRIS. They provide volunteers with a two-hour block of calls to return with questions on specific legal topics. Lawyers are able to obtain the topics and questions ahead of time. Lawyers participate at the State Bar center in Madison either during the day or in the evening. Volunteers may also participate at a hometown hotline. This is an evening event where a host firm provides the space and phones. Phone charges are paid for by the State Bar. LRIS also encourages Law Firm Hotlines where they bring the hotline to the firm either in person or through fax. LRIS

also faxes questions to individual volunteers who can provide two hours of free services from their office during the day. Again, the State Bar covers the phone expenses. The State Bar publicizes these events to promote goodwill for the participants and the broader legal community.

The LRIS Hotline services expects to assist over 1000 individuals with legal advice in 1998.

## **2. TECHNOLOGY**

**Is there a state legal services technology plan? How can technological capacities be developed statewide to assure compatibility, promote efficiency, improve quality, and expand services to clients?**

The LSC grantees, who constitute the “core” legal services providers in Wisconsin, have all recognized the need to effectively use technology to improve the efficiency of their operations and client services. There are currently many uses of advanced technology among the various programs and offices of legal services providers in Wisconsin. Yet with all the progress in this area, greatly reduced resources have created extreme difficulties in the continued modernization and replacement of hardware and software and the never-ending need for staff training. Increased technology also means increased allocation of limited staff time to such functions as maintaining the network, installing and training staff on new software, confronting issues of security of communications, access protocols, integration of software systems and the need for larger memory storage and faster retrieval and manipulation of stored data. The LSC grantees have been at the vanguard of technological upgrade. Results of recent State Bar technology surveys of all attorneys in the state and separately of all legal services providers reveal that the LSC grantees are quite advanced in use of technology compared with the Bar at large, while many of the smaller secondary legal services providers are struggling to upgrade their capacities.

### **a. Advocates and Programs Have the Necessary Technological Capacity.**

While state-level planning in Wisconsin has concentrated on resource development, technology planning has not been ignored either at the State bar or among the LSC grantees. A single written state technology plan has not been promulgated as such; the primary characteristics of such a plan have been addressed by the LSC grantees through coordination and consultation among their executive directors. The disparity of technology levels between the LSC grantees and the secondary legal services providers resulting from historical resource allocation decisions essentially necessitates a bifurcated approach to planning. For many secondary providers, basic computer upgrading for their small office environments is the planning priority. For the LSC grantees and some secondary providers, more advanced planning of sophisticated modalities, including Internet resources, are the focus. The Wisconsin Trust Account Foundation, “WisTAF”, has allocated the sum of \$100,000 for technology grants to be distributed in late 1998 to WisTAF grantees.

Because a statewide Internet focus is an approach designed to benefit staff and volunteers of all providers, both LSC grantees and secondary providers are coordinating opportunities to create a presence of Wisconsin legal services providers on the

Internet. Initiatives in this area include improving the already impressive State Bar web site ([www.wisbar.org](http://www.wisbar.org)), a proposed State Bar public resources web site to be named "wislaw.org," discussed *infra.*, a provider initiative to secure grant funds for a legal services-specific substantive web site, and several topic-specific sites extant or proposed by niche providers respecting their specialized substantive areas.

Each of the LSC grantees has sought to upgrade its technological capacity as resources permit. Each of the four have HandsNet subscription access in all of their offices throughout the state. Each has Internet access. All the LSC grantees and many secondary providers have e-mail capability. Each of the LSC grantees' offices with more than five advocates is networked, and advocate workstation Internet and e-mail connectivity are either in place, or are imminent in the two largest providers and planned in the other two. Each advocate has a useable workstation or stand-alone computer and training in its use. The advocates of all the Wisconsin providers have a long history of networking by telephone. This communication, augmented by fax information exchange, is the primary and preferred cooperative technique.

Through an arrangement with the State Bar of Wisconsin and a legal publisher of CD reference materials on state law, each LSC grantee has Wisconsin statutes, decisions, regulations, Attorney General opinions and legal education and materials available on CD. Each LSC grantee office has computers with CD-ROM capacity. At the present time, the State Bar of Wisconsin is working cooperatively with legal services providers in the state to attempt to arrange Internet access to legal research services at no cost. Several LSC grantees have subscription legal research capacities such as Lexis; all are relying more on the myriad of web sites offering substantive law materials on poverty law and other issues regularly addressed.

The LSC grantees have each implemented client and case management and timekeeping software appropriate to their specialized needs and available resources. While their historical selection of software was program-specific, the compatibility of the relational databases is sufficient for statewide data compilation and evaluation as needed. The disadvantages of implementing uniformity for uniformity's sake clearly outweigh any advantages. The secondary providers' systems are essentially law-niche determined and not amenable to statewide data-gathering. Nevertheless, similar cross-software evaluation would be available if its utility could be demonstrated in the future.

Each of the LSC grantees has technology support and training plans appropriate to their software-specific needs, given the limitations imposed by the 1996 LSC funding cut. The dispersed location of staff throughout the state makes joint computing and software-specific training inefficient, but significant coordination of support efforts is available among the providers. Additionally, the state web site proposals involve an appropriate level of training and support for those functions amenable to statewide

handling and are part of that planning solution. While technical support services are needed regularly, funding levels limit the availability of technical specialists. Consequently, much technological support is through provider self-help and cooperation.

All of the LSC grantees have implemented plans for hardware and software upgrades and replacements specific to their needs and available funding. Since increased funding is the imperative in Wisconsin legal services, upgrading hardware and software planning is dependent upon additional funding. Each of the LSC grantees includes line items in its budget for technological improvements, training and support; the amount of resources allocated is dependent on overall funding with due regard to the mandate of helping clients in a cost-effective way. There is insufficient funding of legal services in Wisconsin to permit expenditure of resources on experimental new technologies which entail the abandonment of proven existing technologies and the established effective patterns of their use. A good example is the effective use of telephone networking for sharing legal services information and concerns.

**b. Materials Are Put on the Web for Use by Low-Income Persons and Social Services Providers.**

The State Bar is designing WISLAW, a new State Bar web site dedicated to public resources. This web site will contain four sections: 1) educational materials and publications; 2) attorney– client information; 3) section-sponsored assistance programs; and 4) consumer services and other organizations. Each section is designed to help members of the public find resources to address their legal needs. Resources available to the public on this site will be from the State Bar and other sources. The State Bar's existing web site, WISBAR, is primarily a resource for attorneys. However, it does contain a web page that is dedicated specifically to the public's needs. Public resources are available on WISBAR at [www.wisbar.org/pubres](http://www.wisbar.org/pubres). The public resources web page is written in plain English and designed for people who have no formal legal education or training.

Within the planning process, the LSC grantees have significant concerns about the effectiveness of stand-alone Internet community education and *pro se* activities beyond the most rudimentary. These activities must be supported by techniques to ensure proper utilization of the materials through access to direct advice and attorney representation. Thus the focus, with our limited funding, is on more direct outreach efforts in light of the fact of extremely limited access of the client population to such Internet resources in Wisconsin. On a trial basis, Legal Action of Wisconsin is exploring the placement of its excellent Medical Assistance ("MA") (Title 19) manual for client use on the State Department of Health and Family Services' web site. That manual explains MA, who is eligible, how to apply, documents needed to apply, MA's relationship to W-2, and contains many other facts about MA. (See Attachment C).



Similarly, web site *pro se* materials without the facility for supporting advice and limited representation are viewed as having limited utility and may be quite dangerous to clients who might utilize them incorrectly. Such techniques may become appropriate in the future when sufficient funding is available to carefully support such electronically available information with attorneys and paralegals.

**c. Programs' Technological Infrastructure Supports Telephone Intake and Brief Advice Systems.**

LSC grantees in Wisconsin have an adequate level of technological infrastructure to support their provision of services in light of state funding levels. As funding increases, this infrastructure will be improved in a thoughtful and coordinated way. The current intake systems of the LSC grantees utilize technology in appropriate ways based upon their diverse populations, locations and resultant needs. These are discussed in the intake section of this report.

**d. Advocates Have Electronic Access to Legal Information and Expertise.**

Not all coordination and sharing of information can be converted to bits and bytes. For example, the LSC grantees have coordinated and shared decisions in public benefits cases for over a decade. Decisions in AFDC, Food Stamps, and Medical Assistance and SSI cases decided at the administrative law judge level are not published or indexed. To facilitate a sharing of information, LSC grantees created an index to catalogue these decisions for easy retrieval. Decisions are routed to each of the eight offices of the LSC grantees throughout the state and kept in an easily accessible central file. Unfortunately, the state does not index or publish these decisions in an electronic form, and they are not available on the Internet. Future advances will likely make this possible. Advocates employed by LSC grantees and other providers enjoy access to legal research materials described earlier in this report.

The LSC grantees initiated a joint brief bank and pleading project several years ago with the view of making available these common resources to all advocates. The project was interrupted by the precipitous funding cuts in 1996 and is again being revitalized on a smaller scale as resources permit. These resources may, of course, be accessible electronically.

**e. Private Bar Involvement Efforts Make Effective Use of Technology.**

Each of the LSC grantees effectively uses telephone and fax systems to support its PAI activities. Each has tailored its case management systems to accommodate this effort. Wisconsin Judicare, being primarily a PAI program facing special geographic challenges, is engaged in planning, including e-mail communication and secure web

site transmission of forms by card issuers and Judicare attorneys. A technology survey is planned as part of a larger survey of Judicare attorneys and card issuers this year to appraise feasibility based upon levels of technological sophistication of those volunteer entities. This information, along with the State Bar technology survey data, will be shared with the other providers to develop strategies to make PAI activities more efficient. Preliminarily, it appears that the rural bar in Wisconsin Judicare's service area has not yet reached a level of technical sophistication to warrant immediate implementation of costly solutions. This is particularly the case because of the well-developed telephone/fax coordination between providers and participating attorneys of the LSC grantees. The coordinated efforts described above are complemented by the State Bar's implementation of Skilton Commission Recommendation 3.

### **3. ACCESS TO THE COURTS, SELF-HELP AND PREVENTIVE EDUCATION**

**What are the major barriers low-income persons face in gaining access to justice in the state? What efforts can be taken on a statewide basis to expand client access to the courts, provide preventive legal education and advice, and enhance self-help opportunities for low-income persons?**

Barriers to access to the legal system include speaking a native language other than English and being a person of a native culture other than Anglo-American. These barriers particularly confront our Southeast Asian, Latino migrant worker, and Native American clients. Our Southeast Asian clients, many elderly and without English skills, find their influence diminished as young people adopt western ways. Asian youth, isolated from the mainstream culture, find gangs an attractive alternative in searching for security and a sense of power. Traditional dispute resolution by clan leaders has no acceptance in the state and federal court systems. Public benefits processes become a maze of confusion for people who have little familiarity with English or the written word. Eligibility and reporting requirements are illogical and are often misunderstood by the family friend who acts as an interpreter at the welfare office.

To assist our clients, all of our programs work closely with Southeast Asian and Native American and Latino community groups. We provide interpreters where necessary, and pamphlets concerning legal rights have been translated into Spanish and Hmong. A Southeast Asian advocate on the staff of Legal Services of Northeastern Wisconsin, who is fluent in English, Hmong, and Laotian, is an accomplished public benefits advocate and provides assistance to staff in family law cases. Legal Action of Wisconsin provides a statewide legal assistance program to migrant workers, which features Spanish-speaking staff and outreach to migrant camps. Wisconsin Judicare has a special Indian Law Office, which provides legal assistance to Native Americans and serves as a statewide resource on Native American issues.

The lack of access to reliable transportation, particularly in rural areas, is another barrier to access to the legal system. Some of our programs provide toll-free telephone lines and conduct some intake over the telephone to provide greater access to clients. In addition, many advocates travel to the various communities in the service area to meet clients. Legal Action's migrant staff travel to migrant camps. Wisconsin Judicare's private attorney Judicare panel assists clients in their local communities.

All of our programs continue to develop, revise, and share readable, plain-English brochures on legal topics that are of concern to low-income people, such as housing, consumer, public benefits, and family law. Further, all of our firms provide community legal education to client groups.

As to what efforts can be taken on a statewide basis, our plan, the Skilton Commission Report, places the laboring oar in the hands of the State Bar to implement Recommendations 3-6. LSC grantee staff members assisted with this implementation, including a Legal Action attorney's working with a LSNeW attorney on the Brown County Pilot Project.

In addition, the State Bar began a cable television program, Law Talk, to educate and inform the public. This 30-minute program hosts guests on a variety of legal topics. The executive directors of the Wisconsin LSC-funded programs were among the first guests to appear to discuss the work that we do statewide and the dangers to legal services in the form of federal cuts to the LSC budget. Programs are also available statewide via the Internet, as the programs can be viewed using technology in addition to cable television.

There is an explosion of information available to individuals who have the capacity to go on-line and retrieve information from the Internet. In Wisconsin, the State Bar has been a national leader in the creation of a website with relevant information available to both the legal community and to the public. Legal forms, court forms, real audio information on a host of topics, brochures, statutes, caselaw and video are all available for anyone with access to a computer and a modem. Free Internet access is available to the public at most public libraries.

Another initiative which developed out of the work of the Skilton Commission was the Project on Accessible Law. The pilot project, funded in part by the State Bar of Wisconsin, has sought to provide access to legal information and self-help materials to Wisconsin residents and to develop a legal Website. Pilot Project Number 2, the Brown County Courthouse Legal Information Center, designed to assist persons with pro se forms at the Brown County courthouse, also developed out of the work of the Commission. Unfortunately, the State Bar's vigorous efforts to make this project permanent were unsuccessful because of a lack of long-term funds and a lack of local governmental support.

In addition, Western Wisconsin Legal Services is collaborating with the Richland County Bar Association in initiating the Richland County Family Law Resource Center, where an attorney volunteers at the courthouse to assist persons with pro se family law forms. The project is seeking to balance the public's need for legal information with its need for direction from lawyers on legal issues. The LSC grantees believe that educational materials and forms must be coupled with the personal guidance and direction of legal advocates to be most effective and understandable to our clients.

#### **4. COORDINATION OF LEGAL WORK, TRAINING, INFORMATION AND EXPERT ASSISTANCE.**

**Do program staff and pro bono attorneys throughout the state receive the training and have access to information and expert assistance necessary for the delivery of high quality legal services? How can statewide capacities be developed and strengthened to meet these needs?**

LSC grantees in Wisconsin have long recognized the need for training and access to information. The statewide task forces organized around substantive law issues provide the foundation for sharing of information, recent developments and case strategies. In addition the LSC grantees cooperate in providing training for staff and pro bono attorneys throughout the state. Each of the four LSC grantees conducts free CLE programs in its service areas for participating pro bono attorneys as both a recruitment and retention device to strengthen existing pro bono programs. Typically one to two days of training are provided on topics of concern to our clients. Topics include SSI and Social Security Disability, Landlord/Tenant, Unemployment Compensation, Fair Housing, Legal Needs of the Elderly and Medical Assistance Planning, the Indian Child Custody Jurisdiction Act and Representing Victims of Domestic Abuse. Recently, the LSC grantee directors, staff to the State Bar's Legal Assistance Committee and the Wisconsin Coalition Against Domestic Violence cooperated to put on a seminar on restraining orders. (See Restraining Orders, November 11, 1997, attached as Attachment D.)

Continuing Legal Education and State Bar membership are mandatory in Wisconsin. The State Bar is the primary provider of CLE to Wisconsin's 19,000 attorneys and has developed an outstanding capacity in this regard. In 1998, the State Bar and the legal services grantees funded and coordinated the production of a free statewide CLE program for participating pro bono attorneys. The training is a day-long event on the topic of representation of victims of domestic violence. The Wisconsin Coalition Against Domestic Violence has been deeply involved in planning these trainings, preparing CLE materials and presenting at the CLE events throughout the state. The need for such training was demonstrated during the year-long examination of the statewide impact of violence on the court system conducted by the commission

appointed by past State Bar President David Saichek. (For a full discussion of the commission's work and their recommendations, see a copy of their report at the State Bar website: [www.wisbar.org](http://www.wisbar.org).)

The assistance of the State Bar in mailing training announcements, producing training materials, reimbursing facility expenses and tracking attorney registrations permits savings in staff time and resources which would otherwise be diverted from direct client services. The training events throughout the state which have taken place under the State Bar sponsorship have greatly increased the attendance for trainings normally conducted by the LSC programs and will, hopefully, provide a foundation for further cooperation in this regard.

As to program staff having access to information and expert assistance, the four LSC providers will continue to hold statewide task force meetings in public benefits, housing, family, health and Social Security Disability. These task forces have been time-tested and have proven themselves. For example, on September 18 the Social Security Task Force met at Legal Action's office in Madison. Twenty-five attorneys from around the state were invited to attend. A private attorney who is expert in Social Security issues put together the agenda, which featured information on legislative, regulatory and caselaw developments. Topics included SSI disability benefits for children, continuing disability reviews, work incentives, disability redesign, overpayments, the obesity listing, and the family SSI cap. There was also a session on cross-examination of vocational experts on the subject of the availability of a significant number of jobs. (See Attachment E.)

These task forces are complemented by the availability to our attorneys throughout the state of informational materials such as, in the Social Security area, materials from the NOSSCR Social Security Forum; the Attorneys' Dictionary of Medicine; the Physicians' Desk Reference; the Merck Manual; the Advocate's Guide to SSI for Children; the PDR for Nonprescription Drugs; Hall's Social Security Disability Practice; the Practitioner's Guide for Appeals to the United States Court of Appeals for the Seventh Circuit; the Diagnostic and Statistical Manual of Mental Disorders; Gray's Anatomy; and Principles and Practice of Pediatrics. This information is available not only in books, but also on the Internet.

Here, Social Security was used as the example, but the same is true for all areas in which Wisconsin legal services attorneys and paralegals practice.

In addition, the chairs of these task forces serve as statewide sources of expertise, and are available to discuss issues and answer questions by phone, fax or e-mail. (See "Medical Assistance - Managed Care Program" Handbook, Attachment F). A report on recent judicial, administrative and legislative developments, together with a HandsNet Weekly Digest, is sent each week to legal services advocates statewide.

(See Weekly Report, 9/15/98, Attachment G).

Statewide capacities can be developed and strengthened to meet these needs for information and expert assistance through the increase of persons with expertise and time available to share that expertise. This can be done through the development statewide of permanent and reliable funding for civil legal services, and through the increase of such resources as Skadden Arps fellows. We will also continue to use the expertise available from the private bar, which we are currently using at maximum.

## **5. PRIVATE ATTORNEY INVOLVEMENT**

**What is the current status of private attorney involvement in the state?  
What statewide efforts can be undertaken to increase the involvement of  
private attorneys in the delivery of legal services?**

Wisconsin currently has a well-developed and integrated statewide legal services delivery system, which includes private attorneys who donate free legal services in civil matters to low-income persons. The LSC grantees refer cases to over 2,000 private attorneys who are members of the *pro bono* panels, which the LSC grantees organize and administer. This private attorney involvement system has evolved over 25 years, operates extraordinarily well, and has as its base a support system which includes LSC grantee staff and the State and local bar associations. This unique partnership greatly enhances the legal services system and should be maintained; however, it should be emphasized that *pro bono* programs are a valuable supplement, not a panacea for the poor in need of legal services, and cannot replace existing LSC programs.

As to statewide efforts, our Plan, the Skilton Commission Report, contemplates that the State Bar and law firms will implement Recommendations 8, 9, 10 and 11. LSC grantees do and will participate in this implementation, but they do not have primary responsibility.

The following describes the private attorney involvement efforts of the LSC grantees and discusses their plans to continue, integrate and enhance private attorney involvement in the statewide delivery of legal services.

### **1. Legal Action's Volunteer Lawyers Project.**

Volunteer lawyers projects are the main component of Legal Action of Wisconsin's efforts to promote private attorney involvement in the delivery of legal services to its eligible clients. During the past several years, Legal Action's volunteer lawyers projects have grown steadily, both in the number of specialty projects and the number of volunteers participating in those projects. This growth is due, in part, to the working

partnership which has evolved between Legal Action and the State and local bar associations in promoting *pro bono* activity.

Legal Action relies on county-wide volunteer lawyers projects to help serve its clients. Legal Action co-sponsors these projects with local county bar associations. Legal Action structured these projects so that private attorneys could easily provide legal services on a *pro bono* basis to income-eligible clients. Legal Action currently operates these projects in 11 counties.

The volunteer lawyers projects also work closely with the State Bar and provide the State Bar with technical assistance in its efforts to develop state-wide *pro bono*. Indeed, Legal Action and the VLPs are deeply involved with the State Bar *Pro Bono* Coordinator's efforts to increase *pro bono* services statewide.<sup>1</sup> The State Bar also assists Legal Action with attorney recognition, training, recruitment, and other special projects.

The VLPs represent clients in a full spectrum of legal work, including advice and brief service, negotiation, administrative representation, simple litigation, and complex and major litigation. The VLPs handle many kinds of cases. Family law, Social Security, and landlord/tenant cases are high priorities for the VLPs; however, Legal Action continues to expand the kinds of cases the projects handle. Legal Action continuously strives to increase the breadth of service to clients and to capture the interests of those in the private bar who traditionally do not participate in the projects.

Law firms also have been instrumental in assisting Legal Action with complex litigation. In the recent past, two Madison law firms have helped Legal Action successfully prosecute two major cases, each which had a substantial impact on Wisconsin's poverty population. Legal Action hopes to continue to use law firm resources to efficiently and effectively represent large segments of the poverty population; however, it has been difficult, almost impossible, to do given Congressional prohibitions and reduced funding levels.

Law firms in Wisconsin traditionally have not "loaned" their staff to legal services offices for extended periods of time. Legal Action, however, has had two associates from the law firm of Skadden, Arps.

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<sup>1</sup> One of the recommendations of the Skilton Commission on the Delivery of Legal Services was the creation of a full time position of pro Bono Coordinator within the State Bar. This position is fully funded by the State Bar for FY 1999. Staffing consists of one full-time position and one half-time position.

Legal Action has recommended to the State Bar's Legal Assistance Committee that larger law firms provide associates to legal services firms, in the nature of the current Skadden, Arps fellowships. Law firms unwilling to "loan" staff instead may be asked to make financial contributions and/or to "adopt" a legal services attorney.

Legal Action has established highly effective and efficient "specialty" *pro bono* projects with law firms, bar associations, and other service providers. These projects have benefitted children with special education needs; children with disabilities; persons who are wrongfully denied unemployment compensation benefits; economically vulnerable persons who need bankruptcy and consumer advice; victims of domestic violence and child abuse; the homeless; the elderly; those with AIDS; and countless others. Some of these Projects are longstanding and have become lifelines for our clients, although they can be time-consuming to organize and monitor for quality control. Others are more recent, but will have a tremendous impact. Legal Action will continue to develop specialty projects to meet unmet legal needs in the poverty community, to the extent its future limited resources allow.

Resources permitting, Legal Action will continue to create opportunities for representation of clients in a broad range of areas in which Legal Action provides services--family, landlord\tenant, SSI\SSD, special education-- as well as those that touch on priorities where Legal Action does not currently offer representation--UC, evictions, real estate, estate planning, taxation, municipal, personal injury, financial responsibility, children in need of protection and services, consumer, bankruptcy, and others. Legal Action also plans to work with the State and local bars and other service providers to create additional opportunities.

Legal Action involves corporate counsel, government lawyers, law firm attorneys, paralegals and others in its work both in and out of its office. Several government attorneys from the IRS perform intake services for the Waukesha Intake Project. Legal Action continues to explore ways to use corporate and government counsel.

The State Bar also is focussing its *pro bono* recruitment efforts on government attorneys. In this vein, the State Bar invited Legal Action to discuss the VLP and to recruit volunteer attorneys at an ethics seminar for government lawyers. In addition, some members of the Skilton Commission wanted corporate counsel, government attorneys and judges to make financial contributions as a way to fulfill their *pro bono* obligations, since some of these attorneys may be unable to provide *pro bono* services given their positions.

In the past, Legal Action has had limited success in developing joint projects with the two local law schools in its service area. At times it did not appear that the law schools were amenable to supporting such joint projects. In one case, Legal Action



staff spent countless hours organizing a project only to have it fail. It takes a lot of time and energy to organize such projects; law students need to be supervised and monitored. In addition, given their schedules at school, most law students cannot devote a lot of time to ongoing projects.

On the other hand, Legal Action recently has had some success with law student involvement, and it appears that the climate at the law schools may be becoming more amenable to *pro bono*. In addition, both schools now have well-established Public Interest Law Societies that have been touting the virtues of public interest work and *pro bono*.

Legal Action also has had limited success employing paralegals on a *pro bono* basis. Most paralegals are not experienced in poverty law and, in addition, do not have the time to become well-versed in it because they already have full-time jobs. Others are looking for full-time paying jobs and, therefore, are not around very long.

On the other hand, Legal Action has had some luck using paralegals for intake at homeless shelters, and currently is exploring opportunities with the two paralegal associations in Wisconsin.

Legal Action has encouraged law firms or corporations to “adopt” groups and cases within a specific legal area. Encouraging law firms to adopt groups or cases is not always easy, especially when various law firm members are not *pro bono*-oriented. For example, in the late 1980's, Legal Action spent a great deal of time working with a large law firm to establish a very innovative eviction project. The project was almost to fruition when several partners voted not to participate. MYLA and the VLP also attempted to organize a general “adoption” project. MYLA prepared a resource manual listing a wide range of community organizations, which attorneys could choose to adopt. Although the manual was informative, the project itself has had limited success.

As with most other projects, it takes a lot of time and other resources to organize “adoption” projects, especially when one has to convince various law firm members that the project is worthwhile. Legal Action will work with firms and the State Bar to the extent it can to increase this type of project.

Legal Action has developed and implemented volunteer recruitment plans with the local bars and is doing so with the State Bar at this time. In particular, a private attorney in Waukesha, who was on Legal Action's Board, has been instrumental in recruiting Waukesha attorneys to join the VLP.

Legal Action currently provides expert training to project volunteers who agree to accept two or more *pro bono* cases per year from the VLP. Delivering legal services

to the poor through *pro bono* poses a unique challenge. Our volunteer lawyers are among the very best, but very few serve poor people as a regular practice. So, unlike their counterparts at Legal Action, they are not experienced "poverty lawyers". The answer to this challenge is to provide top-quality training to our volunteers, focusing on the specific areas of legal practice that they will encounter as VLP volunteers and alerting them to our case selection and referral procedures.

Each fall, Legal Action provides a series of seminars with the help of volunteer instructors who are experts in their field. These seminars have been possible because LSC grantee attorneys, private attorneys, judges, court commissioners and non-attorneys with particular expertise (e.g., vocational experts) generously volunteer their time to prepare notes and materials, update legal manuals, and train volunteers. All VLP panel attorneys are invited to attend these sessions, where they can receive up to 25 free CLE credits. Training is a key VLP recruitment tool.

During 1997, the VLP trained more than 400 attorneys in Social Security Disability, SSI, Family Law, Unemployment Compensation, Landlord/Tenant, Housing Law, and Ethics. Training seminars are held in Oconomowoc -- a central location for VLP attorneys.

In 1995, Legal Action held two specialty trainings: the special education training, which attracted 130 attorneys (including 26 legal services attorneys from around the state who were invited to attend) and 40 non-attorneys. Some attorneys who attended were not from Legal Action's service area, but were allowed to attend because they agreed to take two cases per year from the legal services program in their area. Legal Action prepared a comprehensive manual and appendix with the help of private attorneys.

The Consumer Advocacy & Bankruptcy Assistance Project training also was a success, drawing attorneys to the VLP panel who traditionally do not provide *pro bono* services. The manuals also were very comprehensive and prepared by legal services attorneys from around the state and private attorneys.

Legal Action's projects, trainings and manuals can easily be duplicated in other service areas. LSC grantees know that they are welcome to come to Legal Action trainings and obtain its manuals. LSC grantees also have co-sponsored trainings and co-authored manuals. In addition, private attorneys in other service areas are welcome to attend Legal Action trainings so long as they agree to provide *pro bono* service in their areas.

Because training is so very important and because of the Congressional funding reductions, Legal Action asked the State Bar, through the Skilton Commission, to

sponsor all LSC grantee training seminars. Members of the Skilton Commission responded positively to this suggestion. Later in 1997, the State Bar, through the Saichek Commission on Violence in the Judiciary, co-sponsored a domestic violence training with the legal service providers. The State Bar helped organize the trainings and covered some of the costs.

## **2. Legal Services of Northeastern Wisconsin Private Attorney Involvement**

LSNeW has relied on coordinating its activities with private bar volunteers ever since its inception as Brown County Legal Aid in 1965. Over three hundred volunteer attorneys annually provide thousands of hours of free services to LSNeW clients in priority legal needs.

Recruitment and Training - The successful recruitment of attorneys is the foundation of any effective private attorney involvement (PAI) project. It is our experience that the leaders of the private bar, both formal and informal, are likely to be the most successful in recruiting broad participation by their colleagues. We have also enjoyed some success in recruiting new attorneys by doing mailings to new admittees soon after the swearing-in ceremony. The State Bar of Wisconsin regularly provides the LSC programs with listing of new admittees within our service area.

Our annual free CLE programs also provide a regular recruitment and recognition opportunity. Each year, LSNeW offers a day-long CLE Program on topics of concern to our client community. Volunteer attorneys are invited to attend free of charge; non-participating attorneys are encouraged to join, and others are invited at a fee. CLE programs on landlord/tenant, family law working with victims of domestic violence, fair housing, elder law, social security disability have been offered in recent years.

Finally, the attorneys at LSNeW participate actively in the local and state bar associations and are a visible segment of the legal community. This is extremely helpful in our recruitment and retention efforts.

Attorney Retention - LSNeW provides a variety of inducements for continued participation for volunteer attorneys. We recognize volunteer attorneys at luncheons, with certificates of appreciation, at an annual reception and awards ceremony in conjunction with the State Bar mid-winter convention and through personal correspondence. We offer assistance to volunteer attorneys, use of our library, computerized legal research and, on occasion, our support staff. We reimburse volunteer attorneys for out-of-pocket expenses for mileage, fees not waived, costs and postage. We provide malpractice coverage (secondary) for volunteers through our

carrier. We complete and distribute an annual report of volunteer activities to recognize the efforts of the private bar.

Range of Services to be Provided by Private Bar - The majority of the cases handled by the private bar involve direct representation in litigation in family law matters. As described above, our intake system uses staff resources for providing advice and brief service. Matters referred to the private bar are matters which have been screened to insure that there are matters requiring assistance of an attorney, are within LSNeW priorities, have merit, and match the area for which the attorney agreed to participate. Housing, unemployment compensation, bankruptcy, home foreclosure and driver license revocation are other matters which are regularly, though to a lesser degree, referred to volunteer attorneys. Public benefits and federally subsidized public housing cases are rarely referred to members of the private bar.

In addition to the routine service cases which are referred to the private bar, LSNeW has used the private bar to co-counsel major litigation. For example, in a major consumer class action filed in 1994, we co-counseled with a major Milwaukee firm. This firm has devoted over 1,000 hours to the litigation and has expended considerable sums in litigation expenses. Forming this type of partnership has significantly increased our capacity to engage in major litigation without the resulting diminution of client services or exposing our program to unexpected and unacceptable litigation expenses.

Members of the private bar have also regularly shared their valuable time and talents by providing training to staff at our bi-monthly litigation meetings and providing training at our annual CLE programs.

Coordination with ongoing Private Attorney Initiatives - The only other local pro bono provider in our service area is the Door County Legal Aid Society. The cooperative nature of our relationship has expanded services in that community. All other local bar programs are operated through our referral program. The State Bar Pro Bono Coordinator, under the direction of the State Bar Legal Assistance Committee, of which the LSC Directors are all active members, works closely with the LSC providers to enhance our programs and does not compete for volunteers. Wisconsin is fortunate that our efforts have created a coordinated pro bono delivery system rather than a Balkanized turf war.

Quality Control - As was related in the description of our intake system above, client satisfaction surveys are routinely forwarded to all clients of pro bono attorneys upon notification that the case is closed. In the unusual case of significant client dissatisfaction, we speak with the client and attorney to investigate the matter. In the very rare case it is necessary to remove a volunteer from our panel due to unacceptable poor quality of services provided.

### **3. Western Wisconsin Legal Services - Volunteer Lawyers Project.**

At present, approximately 120 private attorneys are involved in WWLS' Volunteer Lawyer project. Based on the expertise of private attorneys recruited, services are offered to clients in targeted need areas such as family law, housing, access to medical care, public assistance, consumer issues and special needs of the elderly. Since 1997, WWLS has offered private attorneys the opportunity to volunteer during a morning or afternoon in staff offices. In the Dodgeville Office, we have been able to add a family advice line which is staffed by private attorneys. In 1997, in both Dodgeville and La Crosse, private attorneys volunteered for intake.

WWLS has also worked in collaboration with the bar associations on special projects. WWLS staff, in collaboration with the La Crosse County Bar Association, and the Hmong Mutual Assistance Association (HMAA), sponsored a Hmong Court Translator program. The class of approximately 30 participants met one night a week for seven weeks. Private attorneys, judges, social workers and court mediators volunteered their time to provide training in a wide range of court procedures and terminology. WWLS has conducted intake and referral for the La Crosse County Bar Association's Family Law Project.

WWLS also regularly conducts trainings for PAI attorneys in its areas of practice. Recent trainings include training on housing, family law and domestic violence.

Since 1996, WWLS has sponsored a law student internship program. This summer, both Dodgeville and La Crosse have had interns assist us on a variety of projects.

### **4. Private Attorney Involvement - Wisconsin Judicare.**

Wisconsin Judicare ("WJ") has grown to serve 33 counties using the judicare model in its service area of 33 northern counties and 56% of the area of the state. The service area covers approximately 32,000 square miles and contains the state's five poorest counties and twelve of the state's fifteen poorest counties. The judicare delivery system that primarily relies on compensated *pro bono* attorneys and lay advocates in private practice to represent eligible clients is particularly suited to this large sparsely populated area. There are approximately 1,300 attorneys who practice in the counties served by WJ. A panel of 453 private WJ attorneys of whom about 290 actively participate provide direct legal help to low-income clients. WJ is the only legal services program that provides direct basic legal services to low income clients in a broad range of legal problems in northern Wisconsin. PAI planning for this area is done largely on a regional, i.e. program level, because of the special geographical characteristics of the large rural area and the historical development of the judicare model to serve it. WJ is working with the State Bar *Pro Bono* Coordinator to recruit additional *pro bono* attorneys and establish referral arrangements for eligible clients

where judicare panel conflicts or case coverage limits do not allow WJ handling.

From 80 to 85% of all cases closed were handled by WJ's panel of private attorneys and tribal lay advocates. These volunteers handle cases in all substantive areas of law and primarily provide the day-to-day case representation because they are distributed throughout the service area, the cases are within their areas of practice, transportation costs are reduced and resources leveraged. Staff attorneys are used for cases that require expertise that may not be as available in the private bar such as public benefits, health issues, and Indian law cases. Cases of a specialized nature at a substantial distance from the Wausau office may be handled by local WJ panel attorneys with specialized backup from staff attorneys. Continuing education provided the WJ panel members over the years has helped to develop a cadre of counsel knowledgeable in poverty law issues throughout the service area.

WJ Training and Utilization of Technology Supports Private Bar Involvement: WJ has a staff of seven attorneys who provide direct assistance to clients as well as back-up assistance to private attorneys and tribal lay advocates on general civil law poverty issues and Indian substantive law and tribal court procedure. They also provide the private attorney/lay advocate panel with high quality training. For example, the WJ Indian Law Office is currently developing a Model Tribal Court Form Book for use by participating attorneys and advocates. The Indian Law Office is also working to establish an outreach office in Black River Falls, primarily for use by lay advocates, to serve as a referral and resource center for individuals seeking legal help and for advocates seeking clients and access to legal resource tools. WJ supplies each attorney and tribal lay advocate on the WJ panel with an Attorney Handbook. The handbook covers Judicare policies and procedures as well as general information about Judicare. The handbook was distributed in three-ring binders in order to accommodate changes.

WJ panel attorneys and tribal lay advocates receive training provided by the WJ staff. At least one continuing legal education seminar is presented each year at three different locations throughout the service area for WJ panel attorneys and tribal lay advocates in areas of law that are topic areas for WJ case coverage. In the past seminars have included training on the Indian Child Welfare Act, developments in Indian law, Social Security Disability issues, family law/domestic violence and tenants' and children's rights. Extensive manuals are prepared for each seminar which are designed by staff to be working tools for use in representing low income clients. The manuals frequently are 100-200 pages long and are practice manuals that have continuing value beyond the seminar itself. WJ also publishes two editions per year of Newsbriefs, a program newsletter that is distributed to over 700 attorneys and volunteers providing them with up-to-date information on law changes and program policy changes.

WJ maintains two toll free WATS lines for communications with participating attorneys and lay advocates. An increasing number of law offices are submitting information about clients by fax. A computer database was implemented during 1996 to keep track of client information. Conflicts of interest checking of private attorney cases has been computerized. A planned networked messaging system along with Wingate type implementation will allow staff attorneys private e-mail for coordination with attorneys and lay advocates. If a pending statewide initiative fails, WJ plans a web site where public posting of information may be made available to attorneys and organizations that serve WJ clients.

Long range technology planning includes possible future Extranet systems to increase and enhance communication between the central office and WJ panel attorneys and tribal lay advocates concerning case coverage approval and monitoring and e-mail and perhaps secure web site transmission of forms by card issuers and panel members. A technology survey is planned as part of a larger survey of WJ panel attorneys and tribal lay advocates and card issuers this year to appraise feasibility based upon levels of technological sophistication of those volunteer entities.

Activities Support the Recruitment/Retention of PAI Attorneys: The participation rate for the WJ service area is approximately 25% of all lawyers. Outreach efforts have been made periodically by having the Executive Director or staff attorneys attend local bar association meetings to attempt to recruit new panel members. Twelve such visits took place in 1997. The State Bar provides data about attorneys newly admitted to practice in the service area, and they are sent information about WJ encouraging them to participate in the program.

WJ has excellent retention of attorneys on its panel. Over 75% of the attorneys who participate in the program have been doing so for more than five years. About fifty percent of the attorneys participating in the program have been doing so for ten years or more. WJ provides malpractice insurance coverage for attorneys to cover cases that are approved by WJ. Participating attorneys can acquire almost half of the credits they need by regularly attending the seminars the program presents. Another retention factor is that attorneys are paid \$40 per hour. This is less than half the hourly rate and in some instances only covers or may not cover the attorney's overhead. However, providing this amount of compensation makes attorneys willing to accept a higher number of *pro bono* cases than they would be willing to without receiving any compensation at all. While attorneys would encourage an increase in the hourly rate, they understand the limitations that the program has concerning its funding and have been willing to continue to handle WJ cases as part of their *pro bono* responsibilities.

For anniversary recognition events such as the program's 20th, 25th and the 30th anniversaries, private attorneys were recognized for their service and awards presented to attorneys who have provided significantly outstanding service to the program and

to low income clients. At the 30th anniversary celebration, tokens of appreciation were presented to attorneys in the form of coffee cups with the WJ logo on them. This served to remind attorneys and others of the program and encouraged continued participation.

## **5. Conclusion re PAI.**

The State Bar of Wisconsin Pro Bono Coordinator and the Legal Assistance Committee, working in conjunction with LSC programs within the state, have also contributed greatly to creating an atmosphere conducive to recruiting and retaining volunteers. The Wisconsin rules of professional responsibility require all attorneys to participate in pro bono activities, and include in "pro bono" the provision of direct legal services to low-income individuals. The State Bar Legal Assistance Committee, together with the LSC programs, produced a Pro Bono Handbook for law firms suggesting adoption of model pro bono policies by the firms and listing pro bono opportunities for every county in the state. The State Bar sponsors an annual recognition event for pro bono volunteers. It also schedules into its Summer Convention, and publicizes a pro bono recognition reception sponsored by the four LSC grantees. Strong vocal support for legal services and pro bono by the bar leadership has strengthened pro bono in Wisconsin and contributed to our efforts to maintain effective PAI programs.

## **6. RESOURCE DEVELOPMENT**

**What statewide financial resources are available for legal services to low-income persons within the state? How can these resources be preserved and expanded?**

National planners of civil legal services concur that the imperative goal for the 25 states with under \$16.00 of resources per poor person is fundraising: "For example, the imperative for states that have total funding of less than \$16.00 per poor person (about 25 states) should be to raise money." John B. Arango, *A Letter to the Field on a New Concept of Legal Services*, Management Information Exchange Journal, Volume XI, Number 3, March 1998, p. 12.

Raising money is the primary comprehensive statewide activity of the Wisconsin LSC grantees and the State Bar. Where does Wisconsin rank among the states in funding civil legal services to the poor? In 1997, Wisconsin providers of civil legal services received from all sources \$7,686,617 to serve a poverty population of over 500,000. This equates to \$15.11 per poor person ("PPP") and ranks Wisconsin 32nd among the states in helping its poor with their legal problems. The average among all the states is \$19.28 PPP. Civil legal services in our neighboring state of Minnesota receive resources of \$37.83 PPP.



The federal funding for legal services in Wisconsin was slashed from \$5.5 million in 1995 to \$3.9 million in 1996. At the same time, IOLTA funding to the LSC grantees was reduced from \$800,000 to \$676,000. IOLTA income has begun to increase very recently, but remains in jeopardy for a number of reasons, from Phillips to banking decisions. On top of these cuts, changes in federal regulations that prohibited collecting attorneys' fees from opposing parties reduced funds to Wisconsin LSC grantees by at least an additional \$100,000 per year. The impact on the delivery of civil legal services in the state was immediate and severe.

At present the principal financial support for legal services in Wisconsin is provided by the LSC and the Wisconsin Trust Account Foundation (WisTAF), which is the IOLTA program created by the Supreme Court of Wisconsin in 1986. The accompanying charts and graphs (Attachment H) set out both the history of IOLTA and LSC funding to the four LSC grantees combined for the period 1988-1998, and also the percentage of IOLTA funds which have been distributed to the LSC grantees in Wisconsin. As set out in the chart of IOLTA funding to the Legal Services Coalition (LSC grantees), the LSC grantees receive over 70% of all funds distributed by WisTAF.

In addition to the LSC and IOLTA funding, LSC grantees in Wisconsin have aggressively sought local funding whenever possible. This has included funding from United Ways, federal agencies, tribal governments, state agencies, local governments, foundations and corporations. However, despite such efforts and an ever-growing and diverse revenue stream, new funding has failed to replace lost federal funds.

Pursuant to the Skilton Commission's Recommendations 12 and 13, the LSC grantees, together with leaders from the State Bar, have come together in the past two years to attempt to address the need for additional funding for legal services throughout the state. This is the overarching statewide need in Wisconsin - more funds. The development of stable and diverse funding for civil legal services was a core recommendation of the Skilton Commission in its report to the Bar in 1996. The validity of this recommendation is reinforced by John Arango's statement, supra at p. 31.

The State Bar provided \$75,000 in funding to hire professional fundraising consultants to work with the Skilton Commission's Implementation Committee (on which sat all four executive directors) to address this need. From these efforts a new corporation arose, the Equal Justice Coalition, Inc., whose mission is to raise funds statewide for civil legal services. Its Board of Directors is representative of the entire state. The Executive Director of WisTAF participates as a liaison between WisTAF and the Board.

The initial goal is to raise \$5 million over three years to replace lost federal funding in the state. In addition, the Coalition's Long Range Planning Committee has recommended to the full Board the establishment of an endowment fund, the pursuit

of a general legislative appropriation of \$2 million per year, enactment of a \$10 filing fee surcharge, the development of a planned giving campaign, and the obtaining of residual class action funds.

Funds raised by the EJC are transferred to the Wisconsin Trust Account Foundation, a statewide organization, for distribution statewide to nonprofit law firms which provide free civil legal services to low-income persons and who have participated in the EJC campaign. Grantees include nonLSC providers such as the Legal Aid Society of Milwaukee, which has been an active participant in the EJC's work since its inception.

The State Bar of Wisconsin and the local and specialty bar associations in Wisconsin have been active supporters of civil legal services programs in Wisconsin. The State Bar leadership makes an annual trip to Washington, D.C. to meet with members of the Wisconsin congressional delegation to discuss with them issues of concern to the State Bar. Chief among those issues in recent years has been the need to preserve and strengthen legal services and the federal role in the funding of civil legal services. Many of the local bar associations are also active in communicating their support for legal services to their elected representatives.

## **7. Configuration of a Comprehensive, Integrated Statewide Delivery System**

**Where there are a number of LSC-funded programs and/or the presence of very small programs, how should the legal services programs be configured within the state to maximize the effective and economical delivery of high quality legal services to eligible clients within a comprehensive, integrated delivery system?**

There are not a large number of LSC programs in Wisconsin, nor are there any very small LSC programs in the state. Each of the LSC programs has a large geographic service area and a large client base of persons living below poverty. According to the 1990 census there are 508,545 persons with incomes below poverty in Wisconsin. (A map showing the service areas of the LSC programs and their poverty population by county is attached as Attachment I.) The largest concentrations of poor persons are within the larger urban areas of the state, though the rural areas have higher rates of poverty.

At the time of the expansion of LSC programs in Wisconsin, there was a great deal of discussion within the programs, the state and local bar associations, and within the LSC regional office in Chicago and the Washington headquarters as to the proper configuration of Wisconsin programs and the service delivery model (staff or judicare) which was to be deployed. As a result, the northern half of Wisconsin, 33 counties, is served by a Judicare model, while the remaining southern half of the state is served by a staff model. Each approach has proven effective, efficient and appropriate for the

area it serves.

In an effort to examine if a restructuring of Wisconsin LSC service delivery would likely result in greater service to clients, three of the four LSC grantees in Wisconsin sought and obtained a grant to study a possible consolidation of two or more of the LSC programs in the state. Legal Services of Northeastern Wisconsin, Wisconsin Judicare and Western Wisconsin Legal Services formally began their study in 1993, though informal discussions of consolidation had taken place for over a year prior to this. In October of 1993, a team of consultants - John Tull, Martha Bergmark, Larry Nordick and Ken Eigenbrod - spent a week in Wisconsin and examined an array of options, ranging from cooperation and shared administration to full merger.

Following this study, for over a year combined board-staff committees representing all four grantees conducted a series of meetings to discuss merger. They concluded that the first step should be to enhance the working cooperation among the four firms. No overwhelming reasons to merge, or otherwise formally consolidate, were found. Unlike some states where there has been significant fragmentation in the configuration of LSC grantees, Wisconsin has only four grantees, each of whom serves its own service territory without duplication or overlap with the other grantees.

Any further merger discussion must consider the several disadvantages to merger. Also, any future consolidation or reconfiguration will be productive only when and if there is an identified client need or clear advantage to be gained. We believe that those conditions do not exist at this time, as the potential benefits of consolidation have been achieved outside of a difficult and time-consuming merger process. All four firms continue to work closely together and develop new methods to improve the delivery system in the state.

The four LSC-funded project directors were instrumental in the development, with the full cooperation of the State Bar, through the Skilton Commission, of the new statewide development corporation for legal services to low-income people, the Equal Justice Coalition, Inc.

In this regard, it should be noted that for years there have been statewide substantive law task forces composed of representatives of each of the grantees, and which meet approximately six times each year. (These were also discussed in Section 4, supra.) These task forces include public benefits, housing and family law. At the meetings, staff attorneys and paralegals discuss relevant legislation and administrative rules, common legal issues and significant cases, both pending and potential. Legal Action provides the legislative and administrative updates and HandsNet Digest in the Weekly Report (See Attachment G), and there is a significant exchange of theories and issues. In addition, there is constant and extensive informal coordination and communication. Staff advocates among all four firms call each other regularly, exchange pleadings and

other materials, and keep track of what each other is doing.

The executive directors of the four programs meet regularly to discuss numerous issues of statewide concern and to develop joint policy positions around such issues. The directors work very closely on such issues as the development of the Equal Justice Coalition, Inc., the State Bar Legal Assistance Committee, LSC and IOLTA funding, training and statewide pro bono efforts. The four LSC programs have annually submitted a joint application for WisTAF funding since 1988. They recently joined together with other public interest firms in the state to apply for technology funding. They have just recently applied for funding for legal assistance to victims of domestic violence from the Department of Justice. They have previously joined together to apply for law school clinical funding from LSC. They have explored joint purchasing of various items, including joint purchase of health coverage for their employees. Regarding the latter, the three firms decided against joint purchase because it was too difficult to match a provider with such an extensive geographic area, and there was not sufficient net cost savings.

These forms of close cooperation will continue in the future around various issues where it is in the interests of the programs to do so. By maintaining separate organizations which work in close cooperation and openly communicate, they are able to enjoy the advantages of a large operation while maintaining moderate-sized programs with the flexibility necessary to respond to local needs.